

September 27, 1995

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RE: Petition of Triangle Transportation Company, Inc. for Charter Carrier Permit Authority (OAH Docket No. 7-3001-9606-2, TRB Docket No. CH 146851/A-94-795); and

Petition of Lange Transport, Inc. for Extension of Charter Carrier Permit Authority (OAH Docket No. 7-3001-9618-2, TRB Docket No. CH 57484/E-94-811, Sub. 3).

Dear Counsel:

You will recall that on May 17, 1995, during the course of the hearing in the Lange Transport matter listed above, the hearing room was cleared of all other persons and a closed session was conducted among myself, counsel and Mr. Lange, wherein testimony was taken regarding an Administrative Penalty Order (APO) issued on March 14, 1995 by the Minnesota Department of Transportation (MnDOT) against "Lugene Lange and Lange Transport, Inc.". In that connection, Side 3 of audiotape in the Lange matter and "ALJ's Ex. 5" were marked "CONFIDENTIAL" and kept under seal, pending resolution by me of whether they should be made public.

After consulting with staff counsel at MnDOT, I have decided, and IT IS HEREBY ORDERED that the oral testimony kept under seal provisionally in this case (Side 3 of the audiotape made May 17, 1995) and ALJ's Ex. 5 are PUBLIC INFORMATION. Therefore, the examination of Mr. Lugene Lange recorded on Side 3 is part of the public record in this case, and so is ALJ's Ex. 5 (copy attached). Both are hereby ADMITTED to the record in the above matters as of this date.

The admission to the record of testimony previously held "under seal" (Side 3) and of ALJ's Ex. 5 has a further implication, in that I asked previously for your comments on the APO. Paragraph 12 of my letter to you on June 30, 1995 reads:

12) Regarding the March 14 Administrative Penalty Order, what effect should the fact that Lange performed the run from Luverne to Baudette specified therein have on a recommendation regarding Lange's fitness

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and ability? Also, how should the improper rate charges noted in the APO affect any recommendation in the Lange case? To what degree has Lange admitted the charges in the APO, either at the hearing or by paying a lesser penalty in settling the case?

From your responses on August 14, 1995, particularly that of Mr. Van Osdel, it appears that a less than comprehensive response was made to the inquiries in Paragraph 12, in part because I had not yet resolved whether the testimony and related exhibit were part of the public record. Now that they are, I extend to you both another opportunity to respond to the questions in the above-quoted Paragraph 12 of my June 30, 1995 letter.

It appears that Mr. Johnson responded fully to Paragraph 12 in his submission, whereas Mr. Van Osdel did not. Both sides now have an equal opportunity to respond again, this time with the knowledge that the entire record made in Crookston and East Grand Forks is public and with the full documentary record at their disposal. Please file your responses on or before the close of business on Thursday, October 5, 1995 (mailing date). To aid me in filing my Reports in the above matters as soon as possible, I ask you to FAX your responses to me (612/349-2665) concurrently with your mailing.

Thank you for your cooperation.

Very truly yours,

RICHARD C. LUIS
Administrative Law Judge

Telephone: 612/349-2542

RCL:mki